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*via electronic filing*

Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20423

**RE: Docket No. NOR 42121, Total Petrochemicals USA, Inc. v. CSX  
Transportation, Inc., et al.**

Dear Ms. Brown:

On October 25, 2010, defendant CSX Transportation, Inc. ("CSXT") filed a Reply to the Motion for Leave to File Second Amended Complaint, which TOTAL PETROCHEMICALS USA, INC. ("TPI") filed on October 4, 2010. There appears to be a significant factual disparity between the two filings that warrants a brief reply from TPI.

In its Reply, CSXT states that it is "not aware of any contractual obligations that preclude the short line defendants from negotiating separate rates for their portion of a TPI movement." Reply at 5. In TPI's communications with several of the short line defendants, however, some have represented that such contractual restrictions do exist. Furthermore, within just the past few days, some of those short lines have informed TPI that CSXT has agreed to waive such contract restrictions to permit them to enter into Rule 11 contracts with TPI. If no such restrictions existed in the first place, there would be no need for a waiver. Because no short lines have provided TPI with copies of any contracts with such restrictions, TPI cannot verify what it is being told.<sup>1</sup>

This is important because, in its Reply, CSXT asks the Board to make clear that no further amendments will be allowed to TPI's Complaint. Although TPI has no plans to make any further amendments to its Complaint, there is one scenario that would require one further amendment. Now that CSXT has publicly stated, in its Reply at page 5, that, "If TPI and the short line defendants wish to negotiate separate rates for the short lines' segments, they are free to do so," some or all of the short line defendants may now be willing to enter into contracts that would permit TPI to dismiss them from the case. If that should occur, TPI would need to amend its complaint to challenge the CSXT segment rate, as opposed to the through rate. Therefore, the

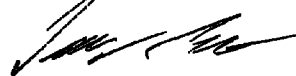
<sup>1</sup> Some short line defendants have expressed reluctance to share their CSXT agreements with TPI because, until the Board grants TPI's "Motion for Leave to File Second Amended Complaint," they are concerned that sharing those documents could breach confidentiality provisions.

October 27, 2010

Page 2

Board should reject CSXT's request for a blanket prohibition against further amendments to TPI's complaint.

Sincerely,



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